

EXHIBIT 7

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CIVIL TERM: IAS PART 53
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ORCHARD HOTEL, LLC,
Plaintiff,

Index No.
850044/11

-against-

D.A.B. GROUP, LLC, ORCHARD CONSTRUCTION, LLC,
FLINTLOCK CONSTRUCTION SERVICES, LLC, JJK
MECHANICAL, INC., EDWARD MILLS & ASSOCIATES
ARCHITECTS, P.C., CASINO DEVELOPMENT GROUP,
INC., CITYWIDE CONSTRUCTION WORKS, INC., EMPIRE
TRANSIT MIX, INC., MARJAM SUPPLY CO., INC.,
ROTAVELE ELEVATOR, INC., SMK ASSOCIATES, INC.,
FJF ELECTRICAL CO., INC, CITY OF NEW YORK, NEW
YORK STATE DEPARTMENT OF TAXATION & FINANCE,
LEONARD B. JOHNSON, CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD, BROOKLYN FEDERAL
SAVINGS BANK, STATE BANK OF TEXAS, and JOHN DOE
#1 through JOHN DOE #100, the last 100 names
being fictitious, their true identities unknown
to plaintiffs, and intended to be the tenants,
occupants, persons or corporations, if any,
having or claiming an interest in or lien upon
the premises described in the complaint,
Defendants.

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July 31, 2012
60 Centre Street
New York, New York

B E F O R E:

HON. CHARLES E. RAMOS,

Justice

A P P E A R A N C E S:

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24 LEE RUTHEN
25 Official Court Reporter

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answered; we want a judgment against them for default.

There have been a number of counterclaims and cross-claims that have been brought for monetary damages by some of the mechanics, the other mechanic lienors.

We say, Judge, it doesn't go to our right to foreclosure, those monetary claims should simply be severed. Any lien priority issues could be addressed by the referee in the computation. If there is anything left over they will get it; we don't think there will be anything left over.

And what we're looking for, and what Mr. Dockwell -- and I'll short-circuit and maybe steal some of his thunder -- in terms of setting the lien priority, we believe your Honor has the authority in looking at the first lien, the second lien, the two mortgages and the money that is owed to Cava Construction, thus Orchard Construction gets slotted in there, and your Honor should set that.

That's the basic premises of where we are, and I'll await an opportunity if I need to respond to anything.

MR. WALLACE: May I, your Honor?

THE COURT: Sure.

MR. WALLACE: William Wallace, I represent D.A.B.

Your Honor, I believe counsel has mischaracterized what Justice Fried had done. Justice Fried was responding to a 3211 motion by both the plaintiff and the plaintiff's

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predecessor, who was -- who were brought in as defendants on the counterclaims. He was addressing it in the context of a 3211.

In essence, what the defenses are here, Judge, is that the borrower reasonably relied on representations. Not just representations and not just oral representations, there were writings. Counsel refers to them by consultants and others.

The primary one was Joanne Gallo, I. Believe she ended up -- she may have been a consultant at the time, she ended up being an executive vice-president at the original lender, and, in fact, has submitted an affidavit in connection with this motion for summary judgment in essence authenticating documents. She doesn't address the issues of the defendants' defenses.

There is an e-mail in the opposition papers. The e-mail is a writing, Judge, and the e-mail references the term of the loan.

Now, the loan on the face of it turned out on March 2011, no question.

On February 28, 2011, your Honor, the loan was performing, payments were being made on the interest, payments were being made on the advances, construction was very active.

Flintlock, the defendant in this case and

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So what did they do? They say we're crooks, we diverted the trust funds so we have a priority.

I got to tell you, it is just brilliant. I think it is wonderful. It is ridiculous as a matter of law, but it is wonderful as a matter of business manipulation, and an attempt to put my portion of my client, who built a million and a half bucks, to get in with four or five other lienors, or our sublienors, to give them a gift of a million and a half bucks of a building.

THE COURT: Guys, we have to break for lunch.

The motion is marked submitted. Get going with your discovery. I want you to put a substantial dent in the depositions by the end of August. When I come back after my vacation in September, I want to have some meaningful discussions about this case.

Off the record.

(Off the record discussion)

(Whereupon, the record was closed)

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C E R T I F I C A T I O N

CERTIFIED TO BE A TRUE AND ACCURATE
TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF
THIS PROCEEDING.


LEE RUTHEN
Official Court Reporter